

## MEDIA ACCESS AUSTRALIA RESPONSE TO NPRM FCC 11-154

### Submitted by:

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### Background and MAA funding model

1. Media Access Australia (MAA) welcomes the opportunity to comment on the matter before the FCC regarding *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010* and to provide some insight into similar and related issues that occurred in Australia and may be of benefit to the FCC in its consideration of this matter.
2. MAA is a not-for-profit organisation that is tasked with making media and information accessible to people with disabilities using technology. It operates in the full range of traditional and new media, including: television (both across the air and cable/satellite), cinema, DVD, streaming video, access to the Internet, social media, developer-level advice and collaboration.
3. MAA is an integral part of the rollout of accessibility, including working with the Australian regulator, the Australian Communications and Media Authority, the Federal Government, particularly the Minister for Communications and the Digital Economy and his department, the Australian Human Rights Commission, disability organisations, consumer organisations and industry.
4. MAA's has an unusual origin and funding base. It was originally named the Australian Caption Centre (ACC), which was a not-for-profit service provider/advocate that provided captioning (and later) and description services for broadcast, DVD, video, online etc. This organisation was modelled on the National Center for Accessible Media and WGBH in Boston, USA. At its peak ACC provided around 80% of the captioning services in the Australian market and employed over 200 people. In February 2006 it finalised a divestment process and change to rename as MAA and to extricate itself from being a service provider.
5. The reasons for withdrawing from being a service provider were: it had created actual and perceived conflicts of interest in terms of developing access when it was seen to be the financial beneficiary of new developments in access and the opening up of new markets; a competitive commercial market for access had been developed in Australia and ACC no longer needed to be in that market for it to continue; it was losing contracts due to an inability to compete on a proper commercial basis; a tiny fraction of its efforts were engaged in advocacy and development of new applications and new markets for access, the rest was focussed on delivering a service; ACC was not able to properly fulfil its mission of developing access with these conflicts.
6. ACC negotiated to sell its remaining contracts, operations and equipment to Red Bee Media. Red Bee Media had been formed from the privatising of the BBC Broadcast functions and was looking to enter the Australian market. The sale process netted approx. A\$11.5m to MAA. This money was then invested in shares and cash instruments and MAA core funding was from the dividends and



interest returns from this capital base (MAA does not pay income tax). MAA started with 5 staff members and has grown to 15 by October 2011. MAA supplements this income stream with grants and other support, usually for specific access projects.

### **Devices capable of showing captions**

7. The only requirements around specifying the devices capable of showing captions are the Australian Standard for digital receivers (ie televisions and set-top boxes) and the Federal Government requirements under the Household Assistance Scheme (which is part of the analog switch off program) and “digital ready” endorsement. In the case of the Australian Standard 4933, it requires the capability of all receivers meeting this standard to decode and display captions for broadcast. There are no screen size limits as the standard is based around the decoder, rather than a television set.
8. The Federal Government tender documents for the Household Assistance Scheme (implemented by Digital Television Taskforce [www.digitalready.gov.au](http://www.digitalready.gov.au) ) require meeting the Australian standard for any devices to be compliant with the tender process.
9. The Australian Standard is not compulsory, although for decoders to receive a digital “tick” from the Digital Television Taskforce, they must meet AS 4933. In reality, pretty much all television decoding devices being sold in the Australian market meet this standard. It should be noted that Australia generally imports its television decoding devices, and being a PAL country, these tend to originate in Europe (and meet the EBU receiver standards).

### **Transfer of captions from broadcast to Internet-provided television**

10. This issue was raised during the Federal Government’s Investigation into access to electronic media for the hearing and vision impaired Media access review final report in December 2010. [http://www.dbcde.gov.au/television/television\\_captioning/media\\_access\\_review](http://www.dbcde.gov.au/television/television_captioning/media_access_review) In the section titled “Online regulatory requirements” (p 37) the Government signalled that the Federal Government’s Convergence Review (currently happening) would deal with issues around access to online media.
11. MAA notes that the provision of captions on Internet-provided television is sporadic and varies from complete transfer, to partial transfer. This also varies from territory to territory.
12. The most comprehensive service is the BBC iPlayer which provides captioning on 100% of its content on its Internet service. This fully replicates the BBC’s free-to-air service (NB: it also includes video description provided as an open-described version).
13. With the BBC service, this includes all live captioned programs and the caption supplier, Red Bee Media, has developed an automated capturing and transferring process to ensure that live captions are processed and uploaded for the Internet version. It is understood that there is an about a 2-hour delay in uploading content, which allows enough time for live captions to be processed and included.
14. In Australia, the ABC (equivalent of the BBC) provides full transfer of its broadcast captioning to its iView Internet service (although the ABC is not at 100% captioning levels yet). This is provided on its player and is a closed-caption service.
15. MAA also notes that the provision of different media players is used as an excuse for not providing captions on online versions of product, although many providers do provide some service. The most significant outcome of the Video Accessibility Act is that it will force the production industry to provide captioning on different media players (which is perfectly feasible now) and thus remove this out-dated excuse for not transferring captions onto online product, whether it is broadcast television, DVD, movie or user-generated content.



## Caption quality

16. MAA will make a more detailed response to the caption quality issue with reference to CG 05-231, however, the Australian regulator, the Australian Communications and Media Authority (ACMA) has been engaged in a process of defining quality of captions in consultation with industry and consumer organisations. This is part of the media access review requirements (Recommendations 7 and 8).
17. Legislation is currently being drafted, as amendments to the *Broadcasting Services Act 1992*, which will require that captions be of an “adequate quality” and that the determination of what adequate quality means will be in the form of criteria developed by ACMA referred to in 16 above. This was included as under current regulations ACMA does not have a legislated mandate to check quality, except where quality is so poor that it could be judged to not be the provision of a captioning service.
18. Although the document has not been officially finalised and brought into law, the basic provisions are agreed and not expected to change.
19. A key provision is that scrolling live captions are seen as a last resort, with synchronous block captions being the expected presentation. This would include on programs that are completed just prior to broadcast and some elements of so-called “live programming” (such as news bulletins).
20. The “hybrid” method of news captioning is used by one commercial network in Australia (Seven). This is where most of the news bulletins are captioned using synchronous block captions and the “true live” crossovers and reports are live captioned either by a stenocaptioner or using re-speakers.
21. The criteria generally avoided trying to define programming type as this removed the flexibility of providing block captions unless it is operationally impossible. MAA notes that preparation of block captions can occur as late as a minute before broadcast and then manually cued to be synchronous with the soundtrack.
22. The approach of the criteria was to reflect operational realities, rather than trying to define everything in a “black-letter law” approach. This includes understanding that if a captioner is going to provide accurate, properly spelt and grammatically correct captions that are synchronous, then that captioner would need adequate training and preparation time. Therefore, these issues do not need to be defined in regulation. Similarly, having a 98% accuracy rate provides some reasonable operational leeway, but to achieve such a level a live captioner needs to be properly trained and given preparation time. As a professional captioner remarked in one of the discussions, they were not going to deliberately reduce the quality of their output to ensure that their captioning only just met the 98% accuracy level, but the 98% figure allowed for the occasional human error.
23. The so-called Electronic Newsroom form of captioning has never been seen as an acceptable form of captioning in Australia.
24. The measurements of accuracy will be around the general international standard of 98%; however this should be measured against the soundtrack, not the accuracy level of captions provided. Therefore, if a broadcast has only 70% of the soundtrack captioned, but with no errors, that is a 70% accuracy rate, not 100% rate.

## Complaints mechanisms

25. The Media access review referred to in 10 also dealt with complaints processes (Recommendation 3). This broadens the role of ACMA to include quality issues. It also requires broadcasters to report annually on actual captioning levels. This is contented by consumers who feel that annual reporting



is too infrequent and that the regulator should undertake quarterly or six-monthly audits.

26. Ofcom in the UK publishes timely statistics showing the level of compliance with access quotas (captioning, description and sign language) and in the case of non-compliance, what the agreed remedy will be. This has recently changed to six-monthly reporting (from quarterly) due to budget constraints. This information is public. Anecdotally, the caption suppliers say that broadcasters live in fear of Ofcom and its compliance requirements and much emphasis is put on dealing with compliance. The overall impact has been a tendency to over-deliver on quotas (particularly with description), which is a good outcome for consumers.
27. In Australia complaints about captions can be made to the broadcaster or directly to the regulator. In practice, consumers tend to complain to the broadcaster first and then to the regulator if the response from the broadcaster is not timely or unsatisfactory.
28. It is fair to say that the major contention for consumers regarding complaint investigation is the time taken. A typical investigation may take 9-12 months before a report is produced. Of course this is usually too late to deal with the immediate issue and ACMA has not taken any proactive approach to looking at systematic issues.

### **Length of programming**

29. In Australia, commercials, outtakes, previews and “station breaks” are not required to be captioned if they are separate to the television program. However, news updates are captioned, even if they are one minute in duration (as the Australian regulations require “all news and current affairs programs”). Similarly, any five-minute short programs are required to be captioned if they are on during prime time (defined at 6.00pm – 10.30pm). The only exceptions to captioning requirements are non-English language programs (most of which are subtitled) or non-vocal music programming (ie classical music).

### **Overseas distributed, non-broadcast IPTV captions**

30. The only general overseas product that is available in Australia is the BBC iPlayer service delivered via an iPad-only app (this was released in October 2011). This provides a subscription service for BBC and other content but it does not provide any captions or audio description (despite the provision of these on the UK BBC iPlayer catch-up service).
31. Australian consumers are also able to access some limited captioned product via the Australian iTunes store (however, not the same levels as are available on the US iTunes store).

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